

<b>Notice of Allowability</b>	Application No.	Applicant(s)
	10/702,369	GORANS ET AL.
	Examiner Andrea M. Valenti	Art Unit 3643

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1.  This communication is responsive to 17 October 2007.
2.  The allowed claim(s) is/are 1-5, 8-18, 22-29.
3.  Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a)  All
  - b)  Some\*
  - c)  None
  1.  Certified copies of the priority documents have been received.
  2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3.  Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4.  A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5.  CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a)  including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1)  hereto or 2)  to Paper No./Mail Date \_\_\_\_\_.
  - (b)  including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6.  DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1.  Notice of References Cited (PTO-892)
2.  Notice of Draftsperson's Patent Drawing Review (PTO-948)
3.  Information Disclosure Statements (PTO/SB/08),  
Paper No./Mail Date \_\_\_\_\_
4.  Examiner's Comment Regarding Requirement for Deposit  
of Biological Material
5.  Notice of Informal Patent Application
6.  Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_.
7.  Examiner's Amendment/Comment
8.  Examiner's Statement of Reasons for Allowance
9.  Other \_\_\_\_\_.

Andrea M. Valenti  
Primary Examiner  
Art Unit 3643

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Kevin Raasch on 14 December 2007.

The application has been amended as follows:

**Claim 19 was cancelled**

**Claim 20 was cancelled**

**Claim 21 was cancelled**

**Claim 22, line 12,** "a tongue control protrusion located proximate the bird head positioning device," was changed to --a tongue control protrusion protruding from a surface of the beak receiving aperture,--

**Claim 23, line 9,** "a tongue control protrusion extending" was changed to --a tongue control protrusion protruding from a surface of the beak receiving aperture and extending--

### ***Allowable Subject Matter***

Claims 1-5, 8-18, 22-29 are allowed.

The following is an examiner's statement of reasons for allowance:

Cited references U.S. Patent No. 3,390,679; U.S. Patent No. 3,812,857; U.S. Patent No. 5,651,731; U.S. Patent Pub No. US 2004/0143278; Netherlands Patent NL

8802812A; U.S. Patent No. 4,446,819 teach an apparatus and method for treating the beak of a bird, the apparatus comprising: a bird head positioning device adapted to position the head of a bird such that at least a portion of the beak of the bird protrudes from a beak receiving aperture of the bird head positioning device; a non-contact energy source emitting energy; an energy director directing energy from the non-contact energy source at the portion of the beak protruding from the beak receiving aperture; and a tongue control protrusion, wherein the tongue control protrusion is located within the beak receiving aperture such that the tongue control protrusion presses into the throat of the bird proximate a lower beak of the bird.

The prior art of record all fails to show, and fails to make obvious, either alone and/or in combination a tongue control protrusion protruding from a surface defining the beak receiving aperture. Even though reference Gourlandt teaches a tongue controlling protrusion it is silent on teaching that it is protruding from a surface of the receiving aperture. Modifications necessary to modify the teachings of Gourlandt would necessitate more than a mere engineering design choice to reconfigure the tongue control protrusion and thus is not an obvious modification. Examiner renders the claimed limitations patentably distinct over the teachings of Gourlandt and the additional relevant cited prior art references.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrea M. Valenti whose telephone number is 571-272-6895. The examiner can normally be reached on 7:00am-5:30pm M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter M. Poon can be reached on 571-272-6891. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Andrea M. Valenti  
Primary Examiner  
Art Unit 3643

14 December 2007